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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,323	03/19/2004	James Andrew Bennett	50037.225US01	1745
27488 7590 08/24/2007 MERCHANT & GOULD (MICROSOFT) P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER RIDER, JUSTIN W	
			ART UNIT 2626	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/806,323

Applicant(s)

BENNETT, JAMES ANDREW

Examiner

Justin W. Rider

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is responsive to communications: Application filed 19 March 2004. Claims 1-24 are pending.

#### ***Information Disclosure Statement***

2. The information disclosure statement(s) (IDS) submitted on 08/2004 and 02/2006 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement(s).

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 11-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 11-17 are attempting to claim computer instructions per se which are merely descriptive material being included in a computer-readable format. Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se. Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir.

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1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and Warmerdam, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

Since the computer instructions are only included and not encoded or stored on some sort of computer-readable medium, the language used tends to be unclear. It must be clear as to whether there is an element that defines a structural and functional relationship between the computer program and the computer itself that would allow for the functionality of the claimed material to be realized.

5. In paragraph 1, lines 5-16 of page 4 of applicant's specification, it is stated, 'Communication media typically embodies computer readable instructions, data structures, program modules or other data in a modulated data signal such as a carrier wave or other transport mechanism and includes any information delivery media [emphasis supplied].' Electromagnetic signals or *carrier waves*, e.g., computer data signals embodied in carrier waves, are mere manipulations of abstract ideas, and are not patentable. Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in § 101.

"The term machine includes every mechanical device or combination of mechanical device or combination of mechanical powers and devices to perform some function and produce a certain effect or result." *Corning v. Burden*, 56 U.S. (15 How.) 252, 267 (1854). A modern definition of machine would no doubt include electronic devices that perform functions. Indeed, devices such as flip-flops and computers are referred to in computer science as sequential machines. A claimed signal has no physical structure, does not itself perform any useful, concrete and tangible result and, thus, does not fit within the definition of a machine.

Signals are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed signals do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer that permit the computer program's functionality to be realized. When functional descriptive material is recorded on some *physical* computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

A claimed limitation keeping the scope of the invention within the realm of a physical embodiment (e.g. floppy disk, CDROM, CD-RW, magnetic hard drive) would, in effect, render a tangible medium storing machine-readable software statutory. Therefore, it is advisable that if

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such a limitation was to be included that explicitly stores or encodes said softwares onto a *physical* medium, such a claim would essentially be viewed as statutory.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-6, 8-9, 11-14, 16-21 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by **Crandall (US 2002/0156902 A1)** referred to as **Crandall** hereinafter.

**Claim 1:** **Crandall** discloses a computer-implemented method for synchronizing a language of an application and a network page, comprising:

- i. comparing the language of the application to the language of the network page (p. 2, paragraph [0019], *'The system would then preferably interface with a client application...'*);
- ii. selecting whether to change the language of the network page to correspond to the language of the application when the language of the network page and the language of the application are not equivalent (FIGs. 1 and 2; p. 2, paragraphs [0015]-[0017]); and
- iii. changing the language of the network page to correspond to the language of the application when a change of the language of the network page is selected (p. 2, paragraph [0019], *'Using these communicated objects, a GUI of the client application would preferably be configured according to the communicated ethnicity objects.'*).

**Claim 2:** **Crandall** discloses a computer-implemented method as per claim 1 above, further comprising determining whether a change occurred to the language of the application

during an offline [local] mode (p. 3, paragraph [0024] discusses the analysis between application and locally stored settings).

**Claim 3:** **Crandall** discloses a computer-implemented method as per claim 2 above, wherein the language of the network page is transparently changed to correspond to the language of the application when a change occurred to the language of the application during the offline mode (p. 3, paragraph [0024] discusses the analysis between application and locally stored settings, *'to render the customized GUI presented to the user.'*).

**Claim 4:** **Crandall** discloses a computer-implemented method as per claim 1 above, wherein comparing the language of the application to language of the network page further comprises retrieving the language of the application and the language of the network page from data storage locations (p. 3, paragraph [0026] discusses the language analysis between application and network over a client/server networking setup.).

**Claim 5:** **Crandall** discloses a computer-implemented method as per claim 4 above, wherein the data storage location for the language of the application is a local setting (p. 3, paragraph [0026]).

**Claim 6:** **Crandall** discloses a computer-implemented method as per claim 4 above, wherein the data storage location for the language of the network page is a user profile included in an online data store (p. 3, paragraph [0026]).

**Claim 7:** Wherein **Crandall** discloses a method as per claim 1 above, it is further inherently necessary that when comparing languages as per the above claimed invention that if the two languages are either i) the same or ii) refused change by user, that no change in the interface language should change.

**Claim 8:** **Crandall** discloses a computer-implemented method as per claim 1 above, further comprising prompting a user to select whether to change the language of the network page to correspond to the language of the application when the language of the network page and the language of the application are not equivalent (FIGs. 1 and 2; p. 2, paragraphs [0015]-[0017]).

**Claim 9:** **Crandall** discloses a computer-implemented method as per claim 1 above, wherein comparing the language of the application to language of the network page further comprises comparing a first unique identifier corresponding to the language of the application to a second unique identifier corresponding to the language of the network page (p. 3, paragraph [0026]).

**Claim 11:** **Crandall** discloses a computer-readable medium for synchronizing a language of an application and a network page, comprising:

i. determining whether a change occurred to the language of the application during an offline mode (p. 3, paragraph [0024] discusses the analysis between application and locally stored settings);

ii. transparently changing the language of the network page to correspond to the language of the application when a change occurred to the language of the application during the offline mode (p. 3, paragraph [0024] discusses the analysis between application and locally stored settings, *'to render the customized GUI presented to the user.'*);

iii. comparing the language of the application to the language of the network page when no change occurred to the language of the application during the offline mode (p. 3, paragraph



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[0026] discusses the language analysis between application and network over a client/server networking setup.);

iv. selecting whether to change the language of the network page to correspond to the language of the application when the language of the network page and the language of the application are not equivalent (FIGs. 1 and 2; p. 2, paragraphs [0015]-[0017]); and

v. changing the language of the network page to correspond to the language of the application when selected and the language of the network page and the language of the application are not equivalent (FIGs. 1 and 2; p. 2, paragraphs [0015]-[0017]).

**Claim 12:** **Crandall** discloses a computer-readable medium as per claim 11 above, wherein comparing the language of the application to language of the network page further comprises retrieving the language of the application and the language of the network page from data storage locations (p. 3, paragraph [0026], steps 402-404).

**Claim 13:** **Crandall** discloses a computer-readable medium as per claim 12 above, wherein the data storage location for the language of the application is a local setting (p. 3, paragraph [0026]).

**Claim 14:** **Crandall** discloses a computer-readable medium as per claim 12 above, wherein the data storage location for the language of the network page is a user profile included in an online data store (p. 3, paragraph [0026]).

**Claim 16:** **Crandall** discloses a computer-readable medium as per claim 11 above, further comprising prompting a user to select whether to change the language of the network page to correspond to the language of the application, when the language of the network page

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and the language of the application are not equivalent (FIGs. 1 and 2; p. 2, paragraphs [0015]-[0017]).

**Claim 17:** **Crandall** discloses a computer-readable medium as per claim 11 above, wherein comparing the language of the application to language of the network page further comprises comparing a first unique identifier corresponding to the language of the application to a second unique identifier corresponding to the language of the network page (p. 3, paragraph [0026]).

**Claim 18:** **Crandall** discloses a system for synchronizing a language of an application and a network page, comprising:

i. an online data store that includes a user profile for storing the language of the network page (p. 2, paragraph [0021], *'be able to determine whether server 33 or database 34 store the necessary information to support any of the ethnicity objects of cultural profile 31.'*);

ii. a computing device for accessing the online data store across a network, the computing device having a language application that is configured to:

a. compare the language of the client application to the language of the network page (p. 2, paragraph [0019], *'The system would then preferably interface with a client application...'*);

b. determine whether to change the language of the network page to correspond to the language of the client application when the language of the network page and the language of the client application do not match (FIGs. 1 and 2; p. 2, paragraphs [0015]-[0017]); and

c. change the language of the network page to correspond to the language of the client application when instructed (p. 2, paragraph [0019], *'Using these communicated objects, a GUI of the client application would preferably be configured according to the communicated ethnicity objects. '*).

Claim 19: **Crandall** discloses a system as per claim 18 above, wherein the language application is further configured to determine whether a change occurred to the language of the client application during an offline [local] mode (p. 3, paragraph [0024] discusses the analysis between application and locally stored settings).

Claim 20: **Crandall** discloses a system as per claim 18 above, wherein the language application is further configured to transparently change the language of the network page to correspond to the language of the client application when a change occurred to the language of the client application during the offline mode (p. 3, paragraph [0024] discusses the analysis between application and locally stored settings, *'to render the customized GUI presented to the user. '*

Claim 21: **Crandall** discloses a system as per claim 18 above, wherein the language application is further configured to retrieve the language of the client application from a local setting and the language of the network page from the online data store (p. 3, paragraph [0026], steps 402-404).

Claim 23: **Crandall** discloses a system as per claim 18 above, wherein the language application is further configured to prompt a user to select whether to change the language of the network page to correspond to the language of the client application (FIGs. 1 and 2; p. 2, paragraphs [0015]-[0017]).

Claim 24: **Crandall** discloses a system as per claim 18 above, wherein comparing the language of the client application to language of the network page further comprises comparing a first unique identifier corresponding to the language of the client application to a second unique identifier corresponding to the language of the network page (p. 3, paragraph [0026]).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 7, 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Crandall**.

Claims 7, 15 and 22: **Crandall** discloses the method, system and computer-readable medium as in claims 1, 11 and 18 above. However, **Crandall** fails to specifically disclose avoiding changing the language of a network page if it is unnecessary. The examiner is asserting that it would have been obvious to one of ordinary skill in the art at the time of invention to include a feature that would avoid performing an unnecessary and computationally expensive task. The idea of not performing a task if it does not apply is common knowledge throughout the art. An example being if a German network user is accessing a network page that is in German, and this user has a German profile within the system, changing the language to German would be redundant. Further, changing to English or Italian would be counterproductive to the scope of

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invention and so the above limitation is a necessarily well-known feature in such an implementation to avoid confusion.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Crandall** in view of **Constable et al. 'Language identification and IT: Addressing problems of linguistic diversity on a global scale'**, SIL Electronic Working Papers 2000-001 referred to as **Constable** hereinafter.

Claim 10: **Crandall** discloses a computer-implemented method as per claim 9 above, however failing to, but **Constable** does specifically disclose a system for customizing processes within an information technology setting to work with a variety of languages wherein unique language identifiers include LCID (p. 12, section 5.1, *'That LANGIDs (actually, sub-language identifiers) are really being used to distinguish cultural conventions, which are usually associated with locales, is evident from examining the structure of LCIDs: these are 32-bit constants that are made up of a LANGID and a sort ID.'*) and RFC-1766 (p. 3, Introduction, *'In this paper, we will consider some existing systems for language identification in use within IT today. These will focus primarily on three particular systems, because of their widespread use and importance within IT: Win32 LANGIDs [6] (used in Microsoft Windows); RFC 1766 [1] (used in XML [7]); and ISO 639(-x) [3, 4] (used in a variety of IT systems and as a basis for other IT standards).'*) values.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to include the teachings of **Constable** in the system of **Crandall** because the information technology industry has been driven to such measures due to a global explosion in

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technology. A rapid increase in economic development has allow all sorts of information to become available to a diverse group of users and so **Constable** addresses this issue, providing advantageous solutions to many common problems, such as: the difficulty in obtaining complete and accurate knowledge of languages, it is impossible to create a static categorization of all languages; different operational definitions of language that can serve different purposes lead to different categorizations of languages that may not agree with one another; existing systems of language identifiers do not employ consistent operational definitions and in many cases list objects that are not languages per se; there are on the order of 6,800 languages known to exist in the world today, which is an order of magnitude greater than what existing systems of language identifiers currently cover, and existing systems do not scale well; and existing systems of language identifiers do not adequately document what language-related category is denoted by a given identifier; in most cases, they provide nothing further than a name, which is inadequate in most cases (Introduction). Further, the RFC 1766 is a community request initiated in 1995 in order to standardize language tagging used in information objects and so therefore has become an accepted method of specifying the language of a text. Also, LCIDs are a standard international numeric abbreviation consisting of a unique 32-bit value that includes a language identifier and sort order identifier. This is used across the board to define not only a language specification but also a region and culture for formatting (e.g. date, time, etc) purposes.


*Conclusion*

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin W. Rider whose telephone number is (571) 270-1068. The examiner can normally be reached on Monday - Friday 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Hudspeth can be reached on (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J.W.R.  
16 August 2007

  
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